No. 05- 05-794

IN THE

Supreme Court of the United States

GMA ACCESSORIES, INC.,

Petitioner,

v.

OLIVIA MILLER, INC.,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Are frivolousness, motivation, and objective unreasonableness, factors which must at least be considered by a district court in deciding whether to award fees under the Copyright Act?

When the award of damages for infringement is nominal, should a prevailing copyright owner be presumptively entitled to reimbursement of legal fees?

PARTIES TO THE PROCEEDING

The caption contains all parties to these proceeding. GMA ACCESSORIES, INC (Plaintiff-Appellant) v. OLIVIA MILLER, INC. (Defendant-Appellee).

STATEMENT PURSUANT TO RULE 29.6

Petitioner, GMA Accessories, Inc, has no parent corporation and no publicly held company owns 10% or more of its stock.

Petitioner GMA Accessories, Inc. ("GMA"), respectfully requests that a writ of certiorari be issued to review the Order of the United States Court of Appeals for the Second Circuit in this case.

OPINIONS BELOW

The Opinion of the United States Court of Appeals for the Second Circuit denying Plaintiff-Appellant's petition for panel rehearing and petition for rehearing en banc is not published and is annexed as **App. D**. The Summary Order of the United States Court of Appeals, dated July 5, 2005, affirming the opinion of the United States District Court Southern District of New York is not published and is annexed as **App. A**. Judgment of the United States District Court Southern District of New York entered July 14, 2004 is not published and is annexed as **App. B**.

STATEMENT OF JURISDICTION

The Summary Order of the United States Court of Appeals for the Second Circuit was signed on July 5, 2005. The Court of Appeals denied a timely petition for rehearing and petition for rehearing en banc on September 14, 2005. This Honorable Court has jurisdiction pursuant to 28 U.S.C. Section 1254(1).

STATUTES INVOLVED

Section 505 of the Copyright Act provides that "in any civil action under this title, the court in its discretion may allow the recovery of all costs by or against any party other than the United States or any officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs". 17 U.S.C. § 505.

STATEMENT OF THE CASE

The Court of Appeals correctly sets forth the pertinent facts as follows: the defendant-appellant Olivia Miller, Inc. (hereinafter "infringer") "did not file an answer to GMA's complaint until August 22. In its answer, Olivia Miller denied GMA's claims and argued, *inter alia,* that GMA had failed to state a cause of action, that GMA did not own the copyright, and that the allegedly infringing designs were 'independently created'". The infringer also denied substantial similarity of the almost identical designs.

There can be no quarrel that these defenses were frivolous and objectively unreasonable in both the factual and the legal sense insofar as *after the copyright owner was forced to engage in discovery and file a dispositive motion, defendant conceded* liability and testified at trial *that it blindly copied the designs without inquiry.* It also readily retracted its affirmative defense concerning similarity of the designs which, it is respectfully submitted are not discernible from each other and were confessed at trial to be almost identical. But the district court never even addressed the unreasonableness or frivolousness of the defenses and their impact on attorney's fees, specifically deciding the issue on other factors including the fact that it had awarded only nominal statutory damages. The decision on the attorney's fee motion was decided in a separately issued opinion six months after the bench trial.

REASONS FOR GRANTING THE PETITION

The Court of Appeals, in upholding a departure from the requirement that frivolousness and/or unreasonableness of a defendant be considered in attorney's fee applications under the Copyright Act, is in conflict with other circuits and fails to follow a prior opinion of this honorable Court.

I

THE DECISION OF THE COURT OF APPEALS CONFLICTS WITH THE OPINIONS OF OTHER CIRCUITS AND FAILS TO CONSIDER FACTORS ESTABLISHED BY THIS HONORABLE COURT.

In *Fogerty v. Fantasy*, 510 U.S. 517, 534, 114 S. Ct. 1023, 127 L. Ed. 2d 455 (1994), this Court noted that while exercising its discretion in awarding attorney's fees, the court may consider various factors, namely, "frivolousness, motivation, objective unreasonableness (both in the factual and in the legal components of the case)."

Subsequent to *Fogerty,* most circuits have afforded the objective reasonableness factor substantial weight in determining whether to award attorneys' fees. *See Matthew Bender v. West Pub. Co.*, 240 F.3d 116, 121 (2d Cir. 2001) ("objective reasonableness is a factor that should be given substantial weight in determining whether an award of attorneys' fees is warranted"); *Lotus Dev. Corp. v. Borland Int'l, Inc.*, 140 F.3d 70, 74 (1st Cir. 1998) (affirming denial of fees because copyright holder's "claims were neither frivolous nor objectively unreasonable"); *Harris Custom Builders Inc. v. Hoffmeyer,* 140 F.3d 728, 730-31 (7th Cir. 1998) (vacating award of fees because, *inter alia,* losing party's claims were objectively reasonable); *Maljack Prods., Inc. v. GoodTimes Home Video Corp.*, 81 F.3d 881, 890 (9th Cir. 1996) (awarding fees because, *inter alia,* plaintiff's claims were "factually unreasonable"); *Diamond Star Bldg. Corp. v. Freed*, 30 F.3d 503, 506 (4th Cir. 1994) (affirming award of fees because, *inter alia,* "the objective reasonableness factor strongly *122 weigh[ed] in favor of awarding attorney's fees and costs").

"This emphasis on objective reasonableness is firmly rooted in *Fogerty*'s admonition that any factor a court considers in deciding whether to award attorneys' fees must be "faithful to the purposes of the Copyright Act." *Matthew Bender v. West Pub. Co., supra* (quoting *Fogerty v. Fantasy*, 510 U.S. at 534

n. 19, 114 S. Ct. 1023). Here, the court's reasoning behind its ruling was completely devoid of any consideration of frivolousness or objective unreasonableness. Instead, in deciding the question, the lower court relied exclusively upon precedent from 1983 and 1989, failing to even cite *Fogerty v. Fantasy.*

The Court of Appeals correctly held that "frivolousness, motivation, objective unreasonableness" are the proper considerations (See p. 6 of Appendix B). However the panel goes on to hold that the district court did not abuse its discretion in setting a fee award of $5000, based on "GMA's 3 week delay in bringing its suit; the small size of actual damages; the limited scope of the infringement; and counsel's belated attempts to accept an offer of judgment only after learning of the size of the statutory damages award".

This holding not only departs from *Fogerty* as well as the holdings of the 4th, 7th and 9th Circuits but is in direct conflict with a recent opinion by Chief Judge Posner who suggests that *Fogerty* be modified so that copyright owners that only recover nominal statutory damages be presumptively entitled to fees so that copyright owners have at least some incentive to protect their art work. *See e.g. Gonzales v. Transfer Techs.*, 301 F.3d 608, 610 (7th Cir. 2002).

It is respectfully submitted that had the district court followed *Fogerty,* it would have at least awarded the copyright owner those fees that the copyright owner was forced to expend between the time that the infringer asserted the frivolous defenses until the time the infringer finally decided to withdraw them after defaulting on a summary judgment motion.

Clearly the purpose of the Act is thwarted if copyright owners like GMA that go through the enormous cost of hiring artists to create original art, are discouraged from protecting their artwork in the future with the knowledge that they will have to finance a case of blatant copying by a wealthy infringer like Olivia Miller, Inc. that does not have an art department and

that tactically decides to assert copy defenses to wear down the artist. The question becomes, is it more profitable to copy than to create?

CONCLUSION

Wherefore, it is respectfully requested that this case be remanded to the district court for consideration of the objective unreasonableness of the infringer's defenses in its calculation of the fees to be awarded.

Respectfully submitted,

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APPENDIX

APPENDIX A — SUMMARY ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT DATED JULY 5, 2005

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 04-4465-cv

GMA ACCESSORIES, INC.,

Plaintiff-Appellant,

v.

OLIVIA MILLER, INC.,

Defendant-Appellee.

July 5, 2005

SUMMARY ORDER

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the District Court is **AFFIRMED.**

GMA Accessories, Inc. ("GMA") appeals the district court's award of $2,000 in statutory damages and $5,000 in attorney's fees in its copyright infringement action against Olivia Miller, Inc. ("Olivia Miller"). GMA argues (1) that the district court erred in finding that Olivia Miller's admitted infringement was not willful within the meaning of the

Copyright Act, 17 U.S.C. § 504(c)(2); and (2) that the district court's fee award was too low, in light of Olivia Miller's assertion of a frivolous defense and its failure to comply fully with the terms of a preliminary injunction. For the reasons stated below, we affirm the district court's judgment.

Background

Olivia Miller manufactures and imports casual footwear that it then sells to retailers and other wholesalers. Sometime in late fall 2002, Olivia Miller was approached by a representative of Deb Shops, a retailer and customer of Olivia Miller's, with a request to replicate a floral pattern on a "flip-flop." It appears as though the model flip-flop that the Deb Shops representative presented to Olivia Miller did not contain a copyright notice. Rather, a copyright notice had apparently been placed only on the connecting "hang-tag," which was not attached to the flip-flop that the Deb Shops representative presented. Olivia Miller agreed to replicate the design, and Deb Shops placed an initial order of 600 pairs, with a back-up order of an additional 600 pairs if necessary. Deb Shops eventually returned 132 of the flip flops, leaving Olivia Miller with a profit of $712.20.

GMA creates original designs that it places on clothing and footwear. One such GMA design was the floral pattern that Olivia Miller agreed to replicate for Deb Shops. According to GMA, a GMA employee noticed the design at issue on a flip-flop on sale at a Rockland County retail store on June 8, 2003. Just over three weeks later, on June 30, 2003, GMA began the present suit charging Olivia Miller

with copyright infringement in violation of the Copyright Act.[1]

The following day, Chief Judge Mukasey issued a "show-cause order" to Olivia Miller, with a hearing set for July 10, 2003. As no representative of Olivia Miller attended the show-cause hearing, the Chief Judge issued a default preliminary injunction against Olivia Miller. The order enjoined Olivia Miller from, inter alia, importing, manufacturing, selling, or marketing merchandise containing the allegedly infringing design. The order also required Olivia Miller to forward a copy of the preliminary injunction to its supplier and to those of its customers who had received merchandise bearing the allegedly infringing design.

Apparently satisfied by a representation from a Deb Shops employee that it would not be difficult to settle the conflict with GMA, Olivia Miller did not forward a copy of the preliminary injunction either to its customers or to its supplier, and did not file an answer to GMA's complaint until August 22. In its answer, Olivia Miller denied GMA's claims and argued, inter alia, that GMA had failed to state a cause of action, that GMA did not own the copyright, and that the allegedly infringing designs were "independently created." On October 3, 2003, GMA filed a motion for contempt,

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1. Deb Shops was an original defendant, but GMA voluntarily dismissed its claims against Deb Shops on July 10, 2003. The complaint also charged Olivia Miller with trade dress infringement under the Lanham Act, 15 U.S.C. § 1125(a), and unfair competition. GMA withdrew the trade dress claim on October 27, 2003. The unfair competition claim was not addressed by the district court and is not raised before us.

having learned in mid-September that Olivia Miller had not fully complied with the preliminary injunction.

In early November 2003, Olivia Miller conceded liability. At a December 10 damages hearing, the district court found that Olivia Miller's infringement was not willful, and set statutory damages at $2,000. At a June 2004 attorney's fees hearing, the court awarded GMA $5,000 in fees, against its claim of $37,000. GMA appeals the size of both the damages award and of the attorney's fees granted. Specifically, GMA argues that the court's damages award is premised in part on an incorrect finding of non-willfulness. GMA also contends that the court should have ordered payment to it of the fees expended in attempting to secure Olivia Miller's compliance with the preliminary injunction.

1. Willful Infringement

We review a district court's factual determination of willful copyright infringement for clear error. *Hamil America, Inc., v. GFI*, 193 F.3d 92, 97 (2d Cir.1999). In so doing, we "give particular deference to determinations regarding witness credibility." *Id.* "The standard is simply whether the defendant had knowledge that its conduct represented infringement or perhaps recklessly disregarded that possibility." *Id.* (internal quotation marks omitted). Knowledge that an infringer's conduct represents infringement may be either actual or "constructive." *Island Software & Computer Serv. v. Microsoft Corp.*, 413 F.3d 257, 264 (2d Cir.2005) (noting that a plaintiff can prove willfulness "by proffering circumstantial evidence that gives rise to an inference of willful conduct").

We cannot say on this record that the district court's determination that Olivia Miller's copyright infringement was non-willful was clearly erroneous. Chief Judge Mukasey based his finding on the testimony of the Olivia Miller sales manager, that the floral pattern she was shown did not bear a copyright notice. The court also noted, moreover, that Olivia Miller had never before been sued for copyright infringement, and generally is "diligent about assuring that it does not reproduce protected designs." A reasonable trier of fact could have concluded, as the district court did, that Olivia Miller neither had knowledge that its actions represented infringement nor had recklessly disregarded the possibility.[2]

GMA contends that Olivia Miller's failure to comply with the terms of the July 2003 preliminary injunction "goes beyond innocent ignorance." To be sure, we have held that an infringer's demonstrated awareness of the plaintiff's allegations can constitute constructive knowledge sufficient to compel a finding of willfulness. *See, e.g., N.A.S. Import Corp. v. Chenson Enters.*, 968 F.2d 250, 252-53 (2d Cir.1992) (reversing the district court's finding of non-willful infringement where the defendant's attorney sent a letter promising to cease infringing and the infringement, instead, continued). The district court took notice of Olivia Miller's failure to circulate timely a copy of the preliminary injunction to its customers and its supplier. But the court noted in

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2. We note in passing that even were we to reverse the district court's finding that Olivia Miller's infringement was not willful, it would not necessarily alter the damages award. *See* 17 U.S.C. § 504(c)(2) (providing that the power to increase a statutory damages award based on a finding of willful infringement rests within the discretion of the district court).

connection with this failure that Olivia Miller's sales manager had relied on a statement of a Deb Shops representative that, as the district court stated, allowed Olivia Miller to believe that "the matter was minor and was being worked out." In light of the record in its entirety, the district court was free to infer from these facts that Olivia Miller's infringement was not willful. *See Anderson v. Bessemer City*, 470 U.S. 564, 574, 105 S.Ct. 1504, 84 L.Ed.2d 518 (1985) ("Where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous.").[3]

2. Attorney's Fees

We review a district court's award of attorney's fees for abuse of discretion. *Crescent Publ'g Grp. v. Playboy Enters.*, 246 F.3d 142, 146 (2d Cir.2001). We have described the scope of our review of fees awards as "highly deferential." *Id.* (quoting *Alderman v. Pan Am World Airways*, 169 F.3d 99, 102 (2d Cir.1999)). The Supreme Court has held that "[t]here is no precise rule or formula" for determining a proper attorney's fees award, but that "equitable discretion should be exercised in light of the considerations [the Court has] identified." *Fogerty v. Fantasy*, 510 U.S. 517, 534, 114 S.Ct. 1023, 127 L.Ed.2d 455 (1994) (internal quotation marks

3. We note, moreover, that whether Deb Shops, in failing promptly to forward a copy of the preliminary injunction to its customers and its supplier, was guilty of continuing infringement is not clear. Lacking any allegation—much less a district court finding—that Olivia Miller violated the Copyright Act after the date of the preliminary injunction, we cannot find clear error in the district court's finding that failure to comply was not willful infringement.

omitted). These considerations include " 'frivolousness, motivation, objective unreasonableness (both in the factual and in the legal components of the case) and the need in particular circumstances to advance considerations of compensation and deterrence.' " *Crescent Publ'g Grp.*, 246 F.3d at 147 (quoting *Fogerty*, 510 U.S. at 534 n. 19, 114 S.Ct. 1023).

In setting a fee award of $5,000, the district court relied on, inter alia, GMA's three-week delay in bringing its suit; the small size of actual damages; the limited scope of the infringement; and counsel's belated attempt to accept an offer of judgment only after learning of the size of the statutory damages award. Chief Judge Mukasey did not abuse his discretion in awarding less than the full measure of attorney's fees sought. *Cf. Gonzales v. Transfer Techs.*, 301 F.3d 608 (7th Cir.2002) (vacating and remanding for reconsideration where a district court granted no attorney's fees at all).

We have considered all of GMA's arguments and find them to be without merit. We therefore AFFIRM the judgment of the district court.

For the Court,

ROSEANN B. MACKECHNIE
Clerk of the Court

by: Richard Alcantara, Deputy Clerk

APPENDIX B — JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK FILED JULY 14, 2004

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

03 CV 4906 (MBM)

GMA ACCESSORIES, INC.

Plaintiff,

- against -

OLIVIA MILLER, INC. and DEB SHOP, INC.,

Defendants.

JUDGMENT

This action having been commenced on June 30, 2003 by filing of a summons and complaint; and defendant Deb Shop, Inc., having been dismissed by notice of dismissal dated July 10, 2003; and defendant Olivia Miller having answered the summons and complaint by answer filed on August 20, 2003; and the non-copyright counts of the complaint having been dismissed by the Court by order dated October 27, 2003; and defendant, Olivia Miller having admitted liability, a trial having been held before the Court on damages only, on December 10, 2003; and by the memorandum opinion and order dated June 4, 2004; and for good cause shown; it is

Appendix B

ORDERED, ADJUDGED AND DECREED, that defendant Olivia Miller, Inc., its agents, servants, employees, sales companies, sales representatives, salespersons, distribution companies, and all persons acting in concert therewith, or participating with them, are hereby permanently enjoined and restrained pursuant to Federal Rule of Civil Procedure 65, from importing, manufacturing, causing to be manufactured, purchasing, converting, promoting, selling, marketing or otherwise shipping, delivering, distributing, returning or disposing of any merchandise with designs substantially similar to plaintiff's Copyrighted Designs; and it is

ORDERED, ADJUDGED AND DECREED, that plaintiff GMA Accessories, Inc., do recover of the defendant Olivia Miller, Inc., with its principal office located at 330 Fifth Avenue, New York, New York 10001, the sum of Two Thousand Dollars ($2,000), together with cost and disbursements as set forth in the Memorandum Opinion and Order in the sum of One Thousand Sixty Five Dollars and Seventy Cents ($1,065.70), together with an award of attorneys fees pursuant to 17 U.S.C. Section 505 in the amount of Five Thousand Dollars ($5,000), totaling Eight Thousand Sixty Five Dollars and Seventy Cents ($8,065.70), and that plaintiff has execution therefor.

Judgment signed this 12th day of July 2004.

s/ Michael B. Mukasey
Hon. Michael B. Mukasey, Chief Judge

APPENDIX C — PRELIMINARY INJUNCTION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK DATED JULY 15, 2003

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Civil Action No: 03CV4906(MBM)

GMA ACCESSORIES, INC.,

Plaintiff,

- against -

OLIVIA MILLER, INC.,

Defendant.

PRELIMINARY INJUNCTION

Upon the Summons and Complaint, the declarations of GEORGE ALTIRS dated June 20, 2003 and CHASTITY MARTINEZ dated June 20, 2003, the exhibits annexed thereto, and all of the other papers and proceedings heretofore had herein; and

It appearing to this Court that defendant OLIVIA MILLER, INC. has imported and/or manufactured and/or sold or caused to be sold and/or offered for sale FLIP FLOPS with a design clearly copied from plaintiff's copyrighted "HAWAIIAN PUNCH" design and threatens to continue such acts unless immediately restrained by order of this Court; and

Appendix C

WHEREAS, plaintiff is likely to succeed in proving at trial that defendant OLIVIA MILLER, INC. has infringed upon the copyrighted design appearing in the motion papers, and it appearing that plaintiff is suffering irreparable injury by the availability in the marketplace of seemingly counterfeit goods;

UPON, plaintiff's motion by way of order to show cause returnable on July 10, 2003, there being no opposition thereto, plaintiff having posted security in the amount of $5,000, and for good cause shown, it is

ORDERED that defendant OLIVIA MILLER, INC., its agents, servants, employees, sales companies, sales representatives, salespersons, distribution companies and attorneys, and all persons acting in concert therewith, or participating with them, pending the trial and determination of this action and until further order of this Court, are hereby enjoined and restrained pursuant to Federal Rule of Civil Procedure 65,

(a) from importing, manufacturing, causing to be manufactured, purchasing, converting, promoting, selling, marketing or otherwise disposing of any merchandise with designs copied from plaintiff's copyrighted design annexed hereto;

(b) from further diluting and infringing plaintiff's said copyrighted design and work of art and damaging its respective goodwill;

(c) from importing, shipping, delivering, distributing, returning or otherwise disposing of, in any manner, any merchandise with designs copied from plaintiff's copyrighted design; and

(d) from destroying any record or object relating to this case; and, it is

FURTHER ORDERED, that within 10 days of its receipt of this Preliminary Injunction, defendant OLIVIA MILLER, INC. shall forward a copy of this preliminary injunction to its supplier and its customers that have purchased or received merchandise bearing the design alleged to be infringing in the plaintiff's complaint.

Dated: New York, New York
July 15, 2003

So Ordered: s/ Michael B. Mukasey
Hon. Michael B. Mukasey, Chief U.S.D.J.

APPENDIX D — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT DENYING PETITION FOR REHEARING FILED SEPTEMBER 14, 2005

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
THURGOOD MARSHALL U.S. COURT HOUSE
40 FOLEY SQUARE
NEW YORK 10007

Roseann B. MacKechnie
CLERK

Date:	9/8/05
Docket Number:	04-4465-cv
Short Title:	GMA Accessories v. Olivia Miller, Inc.
DC Docket Number:	03-cv-4906
DC:	SDNY (NEW YORK CITY)
DC Judge:	Honorable Michael Mukasey

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, Foley Square, in the City of New York, on the 14th day of September two thousand five.

Appendix D

GMA Accessories, Inc.,

Plaintiff-Appellant,

v.

Olivia Miller, Inc.,

Defendant-Appellee.

A petition for panel rehearing and a petition for rehearing en banc having been filed herein by the appellant GMA Accessories, Inc. Upon consideration by the panel that decided the appeal, it is Ordered that said petition for rehearing is **DENIED**.

It is further noted that the petition for rehearing en banc has been transmitted to the judges for the court in regular active service and to any other judge that heard the appeal and that no such judge has requested that a vote be taken thereon.

For the Court,
Roseann B. MacKechnie, Clerk

By: s/ Arthur Heller
Motion Staff Attorney

P-1084- "HAWAIIAN PUNCH" PRINT 7-15-99

CERTIFICATE OF REGISTRATION

FORM VA

For a Work of the Visual Arts
UNITED STATES COPYRIGHT OFFICE

REG

VAu 458-014

EFFECTIVE DATE OF REGISTRATION

8 | 18 | 1999
Month | Day | Year

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

REGISTER OF COPYRIGHTS
United States of America

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

TITLE OF THIS WORK ▼

HAWAIIAN PUNCH PRINT, P-1084

NATURE OF THIS WORK ▼ See Instructions

ART WORK

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2

a

NAME OF AUTHOR ▼

GHA ACCESSORIES INC.

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☒ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country
OR { Citizen of ▶ _____
{ Domiciled in ▶ _____

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No
If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See Instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☒ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work
☐ Design on sheetlike material

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

b

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☐ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country
OR { Citizen of ▶ _____
{ Domiciled in ▶ _____

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No
If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See Instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work
☐ Design on sheetlike material

3

a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED This information must be given in all cases. 1999 ◀ Year

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK
Complete this information ONLY if this work has been published.
Month ▶ _____ Day ▶ _____ Year ▶ _____ ◀ Nation

4

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

GHA ACCESSORIES INC.
1 EAST 33RD ST 9TH FL
NEW YORK, NY 10016

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

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AUG 18 1999

ONE DEPOSIT RECEIVED
AUG 18 1999

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

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Page 1 of 2 pages

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